

Docket No.: 250487US2

COMMISSIONER FOR PATENTS  
ALEXANDRIA, VIRGINIA 22313



RE: Application Serial No.: 10/803,991  
Applicants: Tomohiro NAKAJIMA, et al.  
Filing Date: March 19, 2004  
For: OPTICAL SCANNER AND IMAGE FORMATION  
APPARATUS  
Group Art Unit: 2872  
Examiner: Khatri, P.

SIR:

Attached hereto for filing are the following papers:

**Provisional Election**

Our check in the amount of \$0.00 is attached covering any required fees. In the event any variance exists between the amount enclosed and the Patent Office charges for filing the above-noted documents, including any fees required under 37 C.F.R. 1.136 for any necessary Extension of Time to make the filing of the attached documents timely, please charge or credit the difference to our Deposit Account No. 15-0030. Further, if these papers are not considered timely filed, then a petition is hereby made under 37 C.F.R. 1.136 for the necessary extension of time. A duplicate copy of this sheet is enclosed.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,  
MAIER & NEUSTADT, P.C.

\_\_\_\_\_  
Gregory J. Maier

Registration No. 25,599

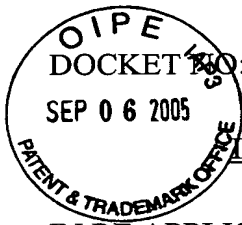
Customer Number

**22850**

(703) 413-3000 (phone)  
(703) 413-2220 (fax)

Surinder Sachar

Registration No. 34,423



DOCKET NO: 250487US2

SEP 06 2005

IN THE UNITED STATES PATENT & TRADEMARK OFFICE

IN RE APPLICATION OF

:

TOMOHIRO NAKAJIMA, ET AL.

: EXAMINER: KHATRI, P.

SERIAL NO: 10/803,991

:

FILED: MARCH 19, 2004

: GROUP ART UNIT: 2872

FOR: OPTICAL SCANNER AND IMAGE  
FORMATION APPARATUS

:

PROVISIONAL ELECTION

COMMISSIONER FOR PATENTS  
ALEXANDRIA, VIRGINIA 22313

SIR:

In response to the Restriction Requirement dated August 5, 2005, Applicants provisionally elect the invention including the optical scanner as shown in Figure 16 ("Species b"), the light source unit as shown in Figure 18 ("Species vi"), and the beam merging unit as shown in Figure 25 ("Species y"), identifying Claims 18, 24-26, 52, 57, and 58 as readable on the elected invention.

The Restriction Requirement is respectfully traversed based on the decision of the Director of the U.S.P.T.O. described in *In re Kase*, 71 USPQ2d 1063 (U.S.P.T.O. Director 2004) (unpublished). The *Kase* decision states that if a no reasons are given to show why claims are independent and/or distinct other than a statement that the claims are directed to a different invention, then the Restriction Requirement is improper and should be withdrawn. See *Kase* at 1064.

As no reasons were given in the present Restriction Requirement as to why the claims are independent and/or distinct, it is respectfully requested that the Requirement to elect a single invention be withdrawn, and that a full examination on the merits of Claims 1-58 be conducted.

Respectfully submitted,


OBLON, SPIVAK, McCLELLAND,  
MAIER & NEUSTADT, P.C.

Customer Number

**22850**

Tel: (703) 413-3000

Fax: (703) 413 -2220  
(OSMMN 06/04)

  
\_\_\_\_\_  
Gregory J. Maier  
Attorney of Record  
Registration No. 25,599

Surinder Sachar  
Registration No. 34,423